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Chairman: Mr. Baja ..... (Philippines)

Contents

Agenda item 152 : Report of the International Law Commission on the work of its fifty-fifth session *(concluded)*

Agenda item 158 : International Convention against the Reproductive Cloning of Human Beings *(concluded)*

Agenda item 155 : Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization *(concluded)*

Agenda item 5 : Election of Officers of the main Committees *(continued)*

Conclusion of the work of the Sixth Committee

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The meeting was called to order at 10.20 a.m.

Agenda item 152: Report of the International Law Commission on the work of its fifty-fifth session (A/58/10) *(concluded)*

1. **Ms. Ramoutar** (Vice Chairman of the Committee), presenting draft resolution A/C.6/58/L.25, said that the paragraphs of the preamble were very similar to those of the resolution approved in the previous session, apart from the sixth and seventh paragraphs which referred to the initiative to revitalize the debate on the Report of the International Law Commission (ILC) in the Sixth Committee. The operative part of the draft resolution invited governments to comment and provide information on various items on the ILC agenda; reiterated the request that ILC adopt measures to improve its efficiency and productivity and reduce its costs; and decided that the next session of ILC would be held from 3 May to 4 June and from 5 July to 6 August 2004. It also welcomed the enhanced dialogue between ILC and the Sixth Committee during the fifty-eighth session, and encouraged it to continue the practice of informal consultations between members of the Sixth Committee and those of the ILC attending the fifty-ninth session. It decided that the first week of debate on the ILC report in the Sixth Committee would thenceforth be known as "International Law Week"; it referred to cooperation between the ILC and other organs; reaffirmed previous General Assembly decisions regarding the indispensable role of the Codification Division of the Office of Legal Affairs in providing assistance to ILC; and it approved conclusions relating to ILC documentation and summary records. As the draft resolution had been subject to detailed consultations, the speaker recommended its approval by consensus.

2. **The Chairman** stated that, in the absence of any objection, he would take it that the Committee wished to approve draft resolution A/C.6/58/L.25 without a vote.

3. *It was so decided.*

Agenda item 158: International Convention against the Reproductive Cloning of Human Beings (A/C.6/58/L.2 and A/C.6/58/L.8) *(concluded)*

4. **The Chairman** recalled that the Committee had been presented with draft resolutions(A/C.6/58/L.2 and A/C.6/58/L.8) in relation to the agenda item, and announced that Chad, Guinea, Guyana, Ireland, the Solomon Islands, Malawi, Nauru, Norway, Papua New Guinea, the Central African Republic and São Tomé and Principe had joined as sponsors of draft resolution A/C.6/58/L.2. He went on to say that, despite the informal consultations that had taken place, it had proved impossible to reach an agreement.

5. **Mr. Dolatyar** (Islamic Republic of Iran), speaking on behalf of the Organization of the Islamic Conference (OIC), expressed his deep concern at the lack of consensus, which he attributed to the complexity and sensitive nature of the topic. Accordingly, and to allow all Member States time to study its various aspects and ramifications and reach a clear position, the OIC group had unanimously decided to table a procedural motion, under rule 116 of the Rules of Procedure of the General Assembly, to adjourn debate on agenda item 158 until the sixtieth session. That would also make it possible to reach consensus on the mandate of the Ad Hoc Committee. The motion did not imply adoption of a position on the draft resolutions and in no way prejudged the position of each country on the underlying issue.

6. Before putting the motion to a vote, **the Chairman** invited two representatives to speak in favour and another two against, pursuant to rule 116 of the Rules of Procedure.

7. **Mr. Pecsteen de Buytswerve** (Belgium), speaking on behalf of the sponsors of draft resolution A/C.6/58/L.8, deplored the fact that it had been impossible to reach consensus on the subject. The Sixth Committee was very divided, and a convention that, by definition, tended towards universality needed to be based on general consensus. The speaker therefore supported the motion to adjourn discussion of the issue for two years, on the understanding that voting for the motion did not imply a position in favour or against the two draft resolutions, but merely recognized the need for the convention to be based on consensus.

8. **Mr. Gandhi** (India) supported the motion tabled by the Islamic Republic of Iran and argued that putting either of the two draft resolutions to a vote would be counterproductive, since an issue of the transcendence

of human cloning should be decided with the agreement of the largest possible number of Member States, whose cooperation would also be essential if the convention were to be implemented effectively. Debates in the Sixth Committee showed that while all Member States were in favour of prohibiting reproductive cloning, there was no agreement on the forms and methods of enforcing such a ban. In those circumstances the most appropriate thing was to adjourn discussions until the sixtieth session, to give countries time to hold further consultations and reach agreement, on the understanding that supporting the motion did not imply being in favour or against the two draft resolutions in question.

9. **Ms. Semambo Kalema** (Uganda) stated that, despite being a member of ILC, Uganda could not support the procedural motion that had been tabled, for moral and ethical reasons. Human cloning was a very important issue affecting human rights, especially the right to life; it also affected the dignity and integrity of human beings and could give rise to abuse. Despite having more urgent problems to face, such as poverty, development and HIV/AIDS, Uganda supported the proposal formulated by France and Germany, because it realized that cloning was bound to affect it one way or another. Despite the lack of consensus in the Committee on the subject, the adjournment motion was not the best way to solve the problem, but merely a recognition of defeat which diminished the credibility of the United Nations and the Sixth Committee.

10. **Ms. Menéndez** (Spain) insisted on the urgent need to prohibit human cloning, and added that the device of adjournment, which had been used before, should not be repeated; it was also inadvisable to send the international community a message suggesting indecision and a lack of reflection. The motion tabled by Iran was contrary to the Rules of Procedure of the General Assembly, which did not provide for motions "to partly adjourn debate." It was, in fact, a draft decision, the true purpose of which was to remove agenda item 158 from the current session of the General Assembly, and include it in a later one. But that could not be done through a procedural motion. The issue of human cloning was very important, and for that reason a decision needed to be taken immediately.

11. **The Chairman** called for a vote on the adjournment motion, on the understanding that if approved, the Committee would not express an opinion on draft resolutions A/C.6/58/L.2 and L.8).

12. *A recorded vote was taken.*

13. *The result of the vote was as follows:*

In favour:

Algeria, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Belarus, Belgium, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cambodia, China, Comoros, Croatia, Cuba, Cyprus, Czech Republic, Democratic Peoples Republic of Korea, Denmark, Djibouti, Egypt, Estonia, Finland, France, Gabon, Germany, Greece, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Japan, Jordan, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Monaco, Morocco, Myanmar, Namibia, Netherlands, New Zealand, Niger, Oman, Pakistan, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Singapore, Slovenia, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tonga, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Viet Nam, Yemen and Zimbabwe.

Against:

Albania, Andorra, Angola, Antigua and Barbuda, Australia, Austria, Barbados, Belize, Bolivia, Bosnia and Herzegovina, Burundi, Central African Republic, Chile, Costa Rica, Democratic Republic of Congo, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, Georgia, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Ireland, Israel, Italy, Kazakhstan, Kenya, Kyrgyzstan, Lesotho, Madagascar, Malawi, Malta, Marshall Islands, Micronesia (the Federated States of), Nauru, Nepal, Nicaragua, Nigeria, Norway, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, São Tomé and Príncipe, Sierra Leone, Slovakia, Solomon Islands, Somalia, Spain, Suriname, Tajikistan, Timor-Leste, Trinidad and Tobago, Tuvalu, Uganda, United Republic of Tanzania,

United States of America, Uzbekistan, Vanuatu, Venezuela and Zambia.

Abstaining:

Bangladesh, Bhutan, Burkina Faso, Cameroon, Canada, Cape Verde, Colombia, Jamaica, Peru, Republic of Moldova, Romania, Serbia and Montenegro, the Former Yugoslav Republic of Macedonia, Ukraine and Uruguay.

14. *The motion to adjourn the debate was adopted by 80 votes to 79, with 15 abstentions.*

15. **Mr. Much** (Germany) stated that Germany and France wanted to establish the widest possible ban on human cloning. Although the negotiations had revealed that many States were unwilling to support a simultaneous ban on both reproductive and so-called "therapeutic" cloning, current scientific advances showed that urgent measures were needed. In order to approve a convention as soon as possible that had general support and made it possible to negotiate prohibition, Germany and France were trying to arrange for an instrument to be drafted that encompassed all forms of human cloning but which could also be approved by consensus. In Germany, all forms of cloning had been prohibited since 1991; and in France, legislation that had been in force since 1994 prohibiting the manipulation of, or experimentation with human embryos, was currently being amended in parliament, to ban all forms of cloning and create a new criminal category of crimes against the human species. France and Germany would deeply regret a decision to cease working for the consensus that was essential, if proposals were to be voted on, contrary to the tradition followed in the Committee, since that would lead to a division in the international community on a fundamental bioethics issue. That would be a mistake, because it would run counter to the main objective of preparing a universally applicable instrument against all forms of human cloning. To avert such a division and continue seeking a consensus solution, postponement of the issue should be considered as the lesser evil. Although Germany and France regretted that there was no mandate to negotiate a convention on cloning at the fifty-eighth session of the General Assembly, they had decided jointly to support the adjournment motion because they considered it essential for the issue to be kept on the Assembly's Agenda.

16. **Mr. Khabayan** (Canada) deeply regretted that there would be no mandate to negotiate a convention prohibiting human cloning. Approval of the adjournment motion was an admission that it had been impossible to resolve differences sufficiently to deal with what was an increasingly urgent problem. The fact that Canada had abstained was not because it saw immobility as an appropriate way to move forward. In fact, the Canadian government had passed legislation that banned all forms of cloning and regulated a number of related practices. The potential dangers of cloning required governments, in their domestic legislation, and the international community to adopt energetic measures. Canada had sought to have international measures adopted, but had abstained from voting in the face of evidence that not everyone shared its desire for progress. Effectiveness required a unity of interests that had not yet been achieved. Canada would work to overcome the differences and achieve a more satisfactory result in 2005.

17. **Mr. De Alba** (Mexico) said that he had voted in favour of adjourning debate on the issue for two years, in order to foster better conditions that would allow a consensus to be reached. The divergences that were evident in the Working Group and in the Sixth Committee threatened to derail a process that had begun two years earlier, and thus prevent approval of an instrument that enjoyed universal recognition. The mere presence of the topic on the United Nations agenda was significant progress in itself; and steps would have to be taken to ensure that the Organization continued to study it, given the latter's genuinely universal nature and the fact that it was the only body competent to do so from a comprehensive standpoint. Civil society had developed an expectation that the United Nations would achieve results addressing all aspects of the problem.

18. Mexico condemned any type of human cloning that was contrary to human dignity. It was therefore necessary to act decisively and single-mindedly on an issue that had repercussions for personal integrity and the exercise of human rights and which could affect the process of human evolution. Nonetheless, freedom of scientific research should only be restricted when it undermined respect for human dignity. A solution should not be imposed that was unacceptable to several countries that already had legislation regulating certain aspects of "therapeutic" cloning, since that would endanger the approval of a universal instrument

banning reproductive cloning, while other aspects could be improved as science continued to shed light on the potential for research on adult cells under the auspices of an international supervision mechanism. There was a need for consensus — a process characterized by mutual respect in the search for areas of agreement, in which the parties made concessions to achieve an outcome. The attempt to negotiate a convention without a genuine consensus on the mandate of the Ad Hoc Committee was doomed to failure. During the next two years, Member States could continue studying the complex scientific-technical, legal and ethical problems that existed, for which Mexico would be in favour of organizing expert seminars to continue studying the issue in depth.

19. **Mr. Motoc** (Romania) said that in the complex debates on human cloning, Romania had tried to maintain the Sixth Committee's tradition of consensus. Having weighed the arguments put forward on both sides, it believed they were not irreconcilable; but the convergent aspects of the two positions needed be promoted rather than the divergent ones, given the overriding need for the international community to adopt measures on human cloning. Romania had therefore had no alternative but to abstain. Nonetheless, if a basic issue had been raised, Romania would have acted consistently with the fact that it was party to the Oviedo Convention and the Additional Paris Protocol, both of which it had incorporated into its domestic legislation.

20. **Mr. Awanbo** (Nigeria) said that it should come as no surprise that Nigeria had voted against the motion, since it had traditionally opposed human cloning whether for reproductive or for therapeutic purposes. Its position was based on a deep-seated concern that developing countries would be easy prey as the source of billions of embryos needed for scientific experiments. The volume of trade in such embryos would clearly threaten the social and democratic stability of developing countries, and would only add to the problems they were already facing. Nigeria considered that the huge resources invested in such experiments ought to be used to promote sustainable development. Human cloning was a very sensitive issue both morally and from other standpoints. It was an important topic that could not be dealt with in cursory fashion, so consensus was needed. Nonetheless, the advantage of adjourning the issue for two years was open to question. A year earlier, the topic had been adjourned for one year; now for two; so if the pattern continued, in two years time maybe there would be a four-year adjournment. Nigeria called for consensus to reach an agreed solution; it believed a failure to reach a decision on such an important issue represented a defeat for the General Assembly.

Agenda item 155: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/58/33, A/58/346, A/58/347, A/C.6/58/L.17, A/C.6/58/L.18) *(concluded)*

21. **Mr. Ascencio** (Mexico), referring to draft resolution A/C.6/58/L.18, asked why a provisional budget estimate was needed to continue publishing the Repertory of Practice of United Nations Organs, given that funds had been allocated in previous budgets.22.

Ms. Van Buerle (Chief of Political, Legal and Humanitarian Services, Office of Programme Planning, Budget and Accounts of the United Nations Secretariat) replied that the Secretary-General had made a proposal to cease publishing the Repertory, so when the budget had been prepared, no resources had been allocated to it. Approval of the draft resolution had implications for the programme budget because any activity relating to the Repertory needed to have resources allocated to it in the budget.

23. **Ms. Turgral** (Turkey) asked why funds had not been allocated to the Repertory in the draft budget, since its publication was one of the Sixth Committee's current mandates.

24. **Mr. Ibrahim** (Syrian Arab Republic) asked whether the General Assembly had approved a resolution putting an end to the Repertory and justifying the non-allocation of budgetary funds for that publication.

25. **Mr. Samy** (Egypt) asked whether the Secretary General's proposal ought not to be approved firstly by a United Nations organ. He also enquired about the practice on budgetary allocations before 1996 and 1997.

26. **Ms. Van Buerle** (Chief of Political, Legal and Humanitarian Services, Office of Programme Planning, Budget and Accounts of the United Nations Secretariat) replied that there had been a resolution on that issue following the Secretary-General's report on the reform, but it had not mentioned the Repertory. The draft budget, in which resources had not been allocated

to the Repertory, was being reviewed in the Fifth Committee. Should the latter decide that publication ought to continue, then account would need to be taken in the provisional budgetary estimate for the purpose of allocating resources for all the Organization's activities.

27. There had been no specific budget item for the Repertory Prior to 1996-1997, so its publication had been not been kept up-to-date; subsequently, special funds were allocated.

28. **Mr. De Alba** (Mexico) recalled that, when the draft reform presented by the Secretary-General had been discussed in the previous year, the corresponding resolution did indeed make no reference to the Repertory, although at that time, it had been very clear that there was no support for the proposal to discontinue it.

29. **Mr. Khabayan** (Canada), speaking also on behalf of Australia, New Zealand and Switzerland, said that while he would not break the Sixth Committee's tradition of approving resolutions by consensus, he continued to believe that all elements of the United Nations reform process proposed by the Secretary-General were essential. One such element consisted of the Secretary-General's recommendation that the Repertory of Practice of United Nations Organs should no longer be published as a charge against the ordinary budget. The speaker was concerned that draft resolution A/C.6/58/L.18 failed to take account of that recommendation; and he considered that approving it did not prejudge the result of the deliberations of the Fifth Committee on its financial consequences.

30. **Mr. Rosand** (United States of America), said that while he did not agree with the paragraphs of the draft resolution referring to the Repertory of Practice of United Nations Organs, he would not be opposed to approving the draft resolution as a whole. The paragraphs in question recommended continuing the publication in its current form, which would have financial consequences for the budget for the biennium 2004-2005 and would be inconsistent with an important aspect of the Secretary-General's reform initiatives. The United States maintained its position regarding budgetary discipline in the United Nations, and opposed taking decisions that would lead to an increase in the budget without a comparable reduction in another item. It recommended the Secretary-General consider other ways of maintaining the Repertory, such as collaboration with academic institutions and publication in electronic form.

31. **Mr. Wanda** (Japan) deplored the fact that the draft resolution was going to be approved without taking account of its budgetary consequences. Japan supported the work of administrative and budgetary reform of the United Nations undertaken by the Secretary-General in order to improve the Organization's effectiveness and efficiency; and it considered that funding needs should be covered by reallocating resources, which had not been done in the case of publication of the Repertory. For that reason, Japan did not support the consensus on the draft resolution.

32. **Mr. Nesi** (Italy), speaking on behalf of the European Union, agreed with the statements made by Canada, the United States and Japan. In particular, it was unable to support the consensus regarding paragraphs 7 and 8 of the draft resolution. While it would not break the Sixth Committee's tradition of approving resolutions by consensus, the European Union had always given its support to the measures proposed by the Secretary-General as an essential part of the reform of the work of the United Nations.

33. **The Chairman** said that in the absence of any objection he would take it that the Committee wished to approve draft resolution A/C.6/58/L.18 without a vote.

34. *It was so decided.*

35. **Ms. Cavaliere de Nava** (Venezuela) applauded the approval of the draft resolution by consensus. Although the Repertory was very important and useful, its budgetary consequences would pose problems for Venezuela in its current financial situation.

36. **Mr. Díaz Paniagua** (Costa Rica) said it was important to continue publishing the Repertory, and he regretted that the statements made by the representative of the Secretariat had not resolved any of the outstanding issues relating to the budgetary consequences. Several delegations had doubts over the draft resolution for that reason.

37. **Ms. Rivero** (Uruguay) highlighted the importance of continuing to publish the Repertory, but expressed concern about its financial consequences.

38. **Mr. Ascencio** (Mexico) welcomed the approval of the draft resolution and emphasized the importance

of continuing to publish the Repertory. The statements made by the representative of the Secretariat had not satisfactorily allayed various delegations' concerns regarding the budgetary consequences. The Ad Hoc Committee had reached certain agreements, and the speaker did not understand why they had not been taken into account.

39. **Ms. Taracen** (Guatemala) supported the statements made by Uruguay and Venezuela.

40. **Mr. Medrek** (Morocco) welcomed the fact that the draft resolution had been approved by consensus, and he supported the delegations that had called for the Repertory to continue to be published.

41. **Ms. Uluiviti** (Fiji) said that the report of the Ad Hoc Committee expressed the unanimous opinion of its members in favour of continuing to publish the Repertory. She was not satisfied with the explanations given by the Secretariat regarding the lack of budgetary appropriations, since it had been stated that everything possible would be done to continue publishing the Repertory. Fiji looked forward to a creative solution being found to make that possible.

42. **Mr. Romeiro** (Brazil) and **Mr. Traisorat** (Thailand) welcomed the fact that the draft resolution had been approved by consensus, and supported the concerns expressed regarding its budgetary consequences.

Draft resolution A/C.6/58/L.17

43. **The Chairman** drew the Committee's attention to draft resolution A/C.6/58/L.17 entitled "Implementation of the Provisions of the Charter of the United Nations Related to Assistance to Third States Affected by the Application of Sanctions", presented by the Russian Federation, and stated that Algeria, Brazil, Chile, China, Egypt, Malaysia, the former Yugoslav Republic of Macedonia, Sierra Leone, Turkey and Uganda had joined as sponsors. He announced that, in the absence of any objection, he would take it that the Committee wished to approve it without a vote.

44. *It was so decided*

Agenda item 5: Election of Officers of the main Committees *(continued)*

45. **The Chairman** recalled that, pursuant to resolution 56/509, the General Assembly had amended its Rules of Procedure to enable the chairmen of the main committees to be elected at least three months before the inauguration of the following session of the General Assembly. Moreover, in accordance with that resolution, elections also needed to be held for other officers of the committees, namely three vice presidents and the rapporteur, at least by the end of the first week of the session. He suggested that consultations among regional groups be held at an early date to enable the Committee to elect its next Chairman at least three months before the start of the fifty-ninth session of the General Assembly. The traditional informal consultations would be held before that session to deal with the remaining posts.

46. *It was so decided.*

Conclusion of the work of the Sixth Committee

47. After the usual exchange of courtesies, **the Chairman** declared that the Sixth Committee had completed its work for the fifty-eighth session.

The meeting rose at 12.35 p.m.